SUBCOMMITTEE NO. 3 Agenda
Health, Human Services, Labor & Veteran's Affairs

Chair, Senator Elaine K. Alquist

Senator Alex Padilla
Senator Dave Cogdill

April 30, 2007

9:00 AM

Room 3191

(Diane Van Maren)

Item	Department
4400	**Department of Mental Health—Selected Issues**
4260	**Department of Health Care Services—Selected Issues**
4265	**Department of Public Health—Selected Issues**

PLEASE NOTE: Only those items contained in this agenda will be discussed at this hearing. *Please* see the Senate File for dates and times of subsequent hearings.

Issues will be discussed in the order as noted in the Agenda unless otherwise directed by the Chair. Thank you.

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A. ISSUES FOR "Vote Only" for All Departments (DHCS, DPH & DMH)

1. Water Operator Certification Program

Issue. The DHCS is requesting an increase of $91,000 (Drinking Water Operator Certification Fund) to fund an Environmental Scientist to assist in implementing the Water Operator Certification Program. Presently there is a staff of eight within the program.

The DHCS contends that this additional position is necessary to meet the certification requirements of nearly 30,000 operators in California. Specifically, they are presently unable to adequately respond to the level of inquiries and requests for re-evaluations from the operators regarding their qualifications for testing and certification. The operators must be recertified every three years and new operators are being certified continuously.

The requested position would be used to prepare test material, evaluate applicant experience and education and coordinate procedures with the water supply industry and the compliance branches of the Drinking Water Program within the Department of Public Health. In addition, the position would be used to follow up on actions regarding operators who are not in compliance.

Background---Water Operator Certification. State law requires public water systems to utilize certified operators. There are about 30,000 operators in the state and recertification occurs every three years. The Department of Public Health is responsible for the implementation of the program. The program is fully fee supported.

Subcommittee Staff Recommendation—Approve. It is recommended to approve the budget request. No issues have been raised.

2. Small Water System and Safe Drinking Water Revolving Fund

Issue. The Drinking Water Program within the Department of Public Health (DPH) is requesting an increase of $601,000 (Public Water System, Safe Drinking Water State Revolving Fund) to fund 5 Associate Sanitary Engineers to increase the inspection frequency of small water systems. This increase would bring the total number of staff in this area to 30 positions.

Currently, the program is able to inspect those systems with significant compliance issues on an annual basis. The DHCS contends that by providing the five positions, additional surveillance will be provided to these systems. The DPH needs to annually inspect over 37,000 systems, biennially inspect over 20,000 systems and inspect another 19,000 systems every three years.

Funds in the Public Water System account are from federal sources. As such, no increases in fees or the General Fund would occur with this proposed adjustment.

Background—Small Water Systems. California has primacy agreements with 36 counties which allow the counties to regulate small water systems with less than 200 service connectors. The state regulates all other small water systems in the remaining 22 counties, along with the small water systems serving between 200 and 1,000 service connections in primacy counties. In total, the state regulates about 2,5000 small water systems (from 15 connections to 1,000 connections).

The DPH notes that small water systems have the greatest number of violations and compliance problems, thereby requiring more regulatory oversight and technical assistance than the large water systems. In addition, small water systems are less able to respond to incidents of contamination because they often lack the technical and financial resources to respond quickly. Therefore, these systems require a higher degree of regulatory oversight and technical assistance.

Subcommittee Staff Recommendation—Approve. It is recommended to approve the budget request. Based on information provided by the DPH, additional oversight of small water systems appears necessary.

3. Child Health Disability Prevention (CHDP) Program

Issue. The budget proposes an increase of $111,000 (General Fund) over the revised current-year for total expenditures of $3 million ($2.950 million General Fund) for the CHDP Program. **This adjustment reflects the standard methodology used for the program.** Specifically, the estimate uses a base projection that uses data from the latest five years to forecast average monthly screens and cost per screen. **No policy changes are proposed.**

Overall Background. The Child Health Disability Prevention (CHDP) Program provides pediatric prevention health care services to **(1)** infants, children and adolescents up to age 19 who have family incomes at or below 200 percent of poverty, and **(2)** children and adolescents who are eligible for Medi-Cal services up to age 21 (Early Periodic Screening Diagnosis and Treatment—EPSDT).

Children in families with incomes at or below 200 percent of poverty can pre-enroll in fee-for-service Medi-Cal under the presumptive eligibility for children provisions of the Medi-Cal and Healthy Families programs. This pre-enrollment takes place electronically at CHDP provider offices at the time the children receive health assessments. This process, known as the CHDP Gateway, shifts most CHDP costs to the Medi-Cal Program and to Healthy Families. As such, CHDP Program funding needs to continue only to cover services for children who are eligible for limited-scope Medi-Cal benefits (such as immunizations).

CHDP services play a key role in children's readiness for school. All children entering first grade must have a CHDP health examination certificate or an equivalent examination to enroll in school. Local health jurisdictions work directly with CHDP providers (private and public) to conduct planning, education and outreach activities, as well as to monitor client referrals and ensure treatment follow-up.

Subcommittee Staff Recommendation--Approve. No issues have been raised regarding this proposal. It is recommended to approve as proposed.

4. Intermediate Care Facility DD-CN —Positions & Sunset Extension

Issue. The Administration is requesting a total increase of $262,000 ($81,000 General Fund, $20,000 L&C Funds and $161,000 in federal funds) to fund four positions on a two-year limited-term basis (from January 1, 2008 to January 2010) to continue to comply with the Intermediate Care Facility for Developmentally Disabled-Continuous Nursing (ICF DD-CN) Wavier requirements, close out the project and prepare an amendment to the State's Medi-Cal Plan to add this service to the Medi-Cal Program.

Three of the requested positions would be within the Department of Health Care Services (DHCS) and would be used to continue the management of the existing pilot, continue certain evaluation analyses, provide clinical monitoring and related activities. The other position would be used within the Department of Public Health to continue monitoring of the pilot and to develop policies and procedures for licensing the facilities once they are added to the State's Medi-Cal Plan.

The Administration is also proposing trailer bill language to extend the ICF DD-CN pilot to January 1, 2010. This is being proposed to allow sufficient time to fully evaluate the pilot and then to take steps to include this as part of the State's Medi-Cal Plan.

The Administration notes that there has been consistently positive feedback from consumers, families and physicians regarding this pilot. In fact, the DHCS is moving forward with the development of licensing regulations and other efforts to prepare for inclusion of these services more fully within the Medi-Cal Program. The table below displays the participating ICF DD-CN facilities.

Facility	Location	Number of Beds (36)	Date Opened
Allen Spees	Fresno	6	April 3, 2002
Baird House	Santa Rosa	6	June 1, 2002
4 J's	San Bruno	6	December 6, 2002
Haber House	Desert Hot Springs	6	November 7, 2002
MVM Home II	Gardena	6	August 23, 2002
Valley Village	Sylmar	6	August 5, 2002

Overall Background—ICF DD-CN. Assembly Bill 359 (Aroner), Statutes of 1999, required the DHCS to establish an ICF DD-CN Waiver pilot under the Medi-Cal Program. The purpose of the ICF DD-CN model is to explore more flexible and effective models of facility licensure to provide 24-hour skilled nursing in a residential community versus an institutionalized setting. The pilot was originally established as a two-year pilot but the federal Centers for Medicare and Medicaid Services (CMS) has since approved two additional three-year Waiver periods and is expected to approve the fourth request (for October 2007 through September 2009).

Subcommittee Staff Recommendation—Approve. The workload has been justified and no issues have been raised. The pilot has produced effective results by improving the lives of many consumers with developmental disabilities in terms of developmental achievements and improved health. It appears that this may be due to the intensive and individual medical and developmental services the consumers have received.

5. Website for CA Rx Prescription Drug Discount Program

Issue. The DHCS is requesting an increase of $96,000 (General Fund) to fund an Associate Governmental Program Analyst (two-year limited-term) to establish and administer a website that will provide information to California residents and health care providers about options for obtaining prescription drugs at affordable prices as required by Assembly Bill 2877 (Frommer), Statutes of 2006.

Background—Assembly Bill 2877 (Frommer), Statutes of 2006. The key components of this legislation are:

- Requires the DHCS to establish a website before July 1, 2008 and to provide a minimum of information as follows:
    - Prescription drug benefits available to Medicare enrollees;
    - State programs that provide drugs at discounted prices;
    - Pharmaceutical manufacturer patient assistance programs that provide free or low-cost prescription drugs to qualifying individuals;
    - Other websites as deemed appropriate by the DHCS that help residents obtain prescription drugs at affordable prices;
    - Typical prices charged by licensed pharmacies in the state of at least 150 commonly prescribed prescription drugs.
- Exempts the project from having to develop a Feasibility Study Report.
- Exempts the project from the state's competitive bidding process.
- Requires the DHCS to ensure that the website does not duplicate or conflict with other website information about prescription drugs.
- Allows for the DHCS to request resources through the Budget Act for this purpose.

Subcommittee Staff Recommendation—Approve. The workload is justified and the website compliments existing efforts to inform and provide low-cost prescription drugs to Californians. No issues have been raised.

6. CA Mental Health Disease Management Program (CalMEND)

Issue. The Department of Health Care Services is requesting an increase of $133,000 ($66,000 from the Mental Health Services Fund—Proposition 63, and $67,000 from federal funds) to increase the existing contract services for the development of additional clinical evidence-based medication algorithms, to expand the development of clinical performance measures and to evaluate future health information technology needs.

Specifically, the increase is to be used to:

- Develop additional medication algorithms for children and adolescents with severe mental disorders and to pilot program implementation into two additional service sites.
- Include the client and family member self-management and shared decision making modules developed in 2006-07 as part of the implementation process.
- Begin development of incentives to support changes in provider practice.
- Include additional work on CalMEND health information technology planning

The overall purpose of CalMEND is to tie future drug and treatment purchasing and payment decisions to evidence-based guidelines.

Background—What is CalMEND. The Medi-Cal Program provides psychotherapeutic drugs to nearly 300,000 persons per month. The cost to Medi-Cal for the purchase of psychotherapeutic drugs needed to treat various mental health conditions was nearly $1 billion (total funds) in 2003-04. The DHCS estimates that about 10 to 15 percent of the cost of provision of drugs for the treatment of mental disorders is attributable to the inappropriate prescribing of more than one antipsychotic to an individual, which, for the most part, is considered to be an inappropriate prescribing practice.

The Department of Health Care Services (DHCS) and Department of Mental Health (DMH) have initiated this joint effort-CalMEND-- to improve mental health outcomes, while managing pharmaceutical costs. **CalMEND aims to reduce pharmaceutical costs and improve prescribing patterns and access to the quality mental health care services delivered to persons with certain mental health disorders.**

The DHCS states that CalMEND will directly address the necessary improvement of the cost-effectiveness of mental health services delivered and/or paid for by state organizations by developing best clinical and administrative practices.

The DHCS and DMH are working with the CA Institute of Mental Health (CiMH), Texas Medication Algorithm Project (TMAP), other experts in the field, and consumers during the planning phase to develop deliverables. Specifically, CalMEND is to build upon the following existing models of mental health disease management and current state efforts to achieve its deliverables:

- The Texas Medication Algorithm Project and the CA Medication Algorithm Project, which is adapting the Texas model for use in local County Mental Health Plans, which uses evidence-based medication algorithms as a central component; and
- The efforts of the Common Drug Formulary System and Policy Oversight Committee developed in January 2003, in response to SB 1315 (Sher), Statutes of 2002, by several state departments, under the direction of the Department of General Services.

When full implemented, CalMEND is to have the following deliverables:

- Develop and implement clinical evidence-based treatment approaches including medication algorithms or equivalent clinical decision support systems for providers to use when making clinical treatment decisions;
- Improve client self-efficacy and compliance with medication and other treatment and mental health support regimens;
- Change the practice environment to support improved quality of care; and
- Develop a data infrastructure to improve upon data collection and analysis based upon common data sets and uniform documentation standards.

Subcommittee Staff Recommendation—Approve. The increase is does not affect the General Fund and is an appropriate use of Proposition 63 funds. No issues have been raised with the request.

7. Implementation of Senate Bill 1260 (Ortiz), Statutes of 2006—Stem Cell

Issue. The budget proposes **an increase of $208,000 (General Fund) to fund a Research Specialist I position and a contract with the University California at San Francisco to conduct oversight of human embryonic stem cell research in California as contained in SB 1260 (Ortiz and Runner), Statutes of 2006.**

In addition, the budget proposes $50,000 (Maternal and Child Health federal funds) to support the 13 member Human Stem Research Advisory Committee which was established pursuant to SB 322 (Ortiz), Statutes of 2006.

SB 1260, Statutes of 2006, continues the provisions of SB 322 (Ortiz, 2003) for oversight of human embryonic stem cell research by

Background—California Stem Cell Research and Cures Act: This Act was established in 2004 through Proposition 71 which created the California Institute for Regenerative Medicine (CIRM). Among other things, the purpose of this institute is to make grants and loans for stem cell research, research facilities, and other vital research opportunities to realize therapies, protocols, and medical procedures that will result in the cure or substantial mitigation of diseases and injuries.

The Independent Citizen's Oversight Committee (ICOC) is composed of appointed members who perform various functions with regard to the CIRM, including establishing standards applicable to research funded by the CIRM.

Subcommittee Staff Recommendation—Approve. The budget request is consistent with the legislation. No issues have been raised. It is recommended to approve as budgeted.

8. Health Insurance Recovery Group—Third Party Liability

Issue. The DHCS is requesting an increase of $551,000 ($138,000 General Fund) to permanently establish 7 positions which are set to expire as of June 30, 2007. These positions are in the Health Insurance Recovery section of the Medi-Cal Program and are used to recover from liable private insurance carriers any payments made by Medi-Cal when a private carrier is found to have primary payment responsibility. These are the only positions in this section doing this type of work.

These positions were provided in the Budget Act of 2005 as two-year limited-term. The purpose of these positions was to increase commercial insurance recoveries by pursuing unpaid health insurance claims. The DHCS states that these third party carriers often fail to pay claims for a variety of reasons. As such, this staff has been doing the following key functions:

- Work with health insurance carriers to ensure that these claims are paid;
- Research and collect payments on aged accounts receivable; and
- Update health coverage information and coding in the Medi-Cal Eligibility Data Systems (MEDS), the Medi-Cal Management Information System (MMIS), and the Third Party Liability system to ensure future Medi-Cal cost savings.

According to the DHCS, these positions achieve about $3.6 million (total funds) in annual savings for the Medi-Cal Program through both cost recovery efforts as well as cost avoidance efforts.

Subcommittee Staff Recommendation—Approve. It is recommended to approve the budget request. The positions are cost-beneficial and assist in preserving the fiscal integrity of the Medi-Cal Program through the recovery of inappropriate expenditures.

9. Elimination of "Price Adjustment--Department of Mental Health (DMH)

Issue—Finance Letter. The Subcommittee is in receipt of a Finance Letter requesting to reduce the Department of Mental Health's General Fund budget items by a total of $2.4 million (General Fund) to reflect the elimination of the "price adjustment" originally funded in the Governor's budget released on January 10, 2007. This adjustment reflects a reduction of $1.7 million in the State Hospitals, with the remaining amount being taken in other state support. This action is eliminating the augmentation provided in January.

The Administration states that they are eliminating this "price adjustment" (in essence a cost-of-living-adjustment) for state support (primarily for operating expenses) to provide for expenditure increases they are requesting through the Finance Letter (spring revision) process.

Subcommittee Staff Recommendation—Approve. It is recommended to approve the Finance Letter and make the requested reduction. This is a minor adjustment to the State Support budget. No issues have been raised.

10. Information Privacy & Physical Security

Issue. The DHCS is proposing a reduction of $148,000 (total funds) by adding three positions in lieu of using contract staff to meet requirements regarding various policies and procedures related to information security and privacy. Specifically, a contractor at a cost of $450,000 (total funds) had been conducting the work. By using staff employees, the DHCS states they will achieve the savings and have ongoing assistance with these issues.

The DHCS has a Privacy Office that is responsible for ensuring that information privacy and physical security policies and procedures are in place to protect personal confidential information and for implementing Health Insurance Portability and Accountability Act (HIPAA). The three positions will provide assurance that (1) appropriate levels of physical security are provided for all DHCS offices; (2) on-going monitoring for compliance with policies and procedures is conducted, (3) information security breaches are reported timely and fully investigated; and (4) all DHCS employees receive annual training on information security and privacy and their related roles and responsibilities.

Subcommittee Staff Recommendation--Approve. No issues have been raised regarding this proposal. It is recommended to approve as budgeted.

11. Implementation of Senate Bill 611 (Speier), Statutes of 2006 –Meat Recalls

Issue. The Department of Public Health (DPH) is requesting an increase of $389,000 (General Fund) to support three positions (two Food and Drug Investigators, 0.5 Food and Drug Supervisor, and 0.5 Associate Governmental Program Analyst) to implement Senate Bill 611 (Speier), Statutes of 2006.

The staff will be used to conduct the following key activities:

- Review documents regarding meat recalls;
- Perform recall effectiveness checks;
- Conduct facility inspections to determine non-compliance;
- Contact firms that provide incomplete data;
- Conduct enforcement actions against non-compliant firms;
- Determine disposition of recalled products;
- Provide information to local health jurisdictions; and
- Summarize recall effectiveness efforts.

Background—Senate Bill 611 (Speier), Statutes of 2006. This enabling legislation requires meat or poultry suppliers, distributors, brokers, or processors to immediately notify the DPH and their customers when these firms have or will have recalled product that meets the U.S. Department of Agriculture (USDA) criteria for a Class I or Class II recall. In addition, it requires: (1) businesses to provide the DPH with an electronic list of all their customers that have or will receive any product subject to the recall; (2) DPH to notify local health officers and environmental health directors of the distribution of recalled product within their jurisdiction; and (3) the public to be notified.

Subcommittee Staff Recommendation--Approve. No issues have been raised. The workload is justified and the resources are addressing a critical issue for Californians.

12. Proposed Trailer Bill—Emergency Physicians & Proposition 99 Funds

Issue. The Administration is proposing to appropriate $24.803 million (Proposition 99 Funds) to reimburse physicians, surgeons and hospitals for uncompensated emergency medical services. This appropriation is consistent with appropriations made for this purpose for the past several years, since 2000. These funds are used at the county level to reimburse physicians for uncompensated emergency medical services to persons who cannot afford to pay for such services.

However, the Administration's proposed trailer bill language which accompanies the appropriation is not consistent with language adopted in some prior years.

Subcommittee Staff Recommendation—Modify Trailer Bill Language. After working with constituency groups, it is recommended to add a provision to the language which would have it conform to previous statute to ensure that any county who has an existing special fee schedule can allocate funds to their hospitals and physicians accordingly. The added provision is as follows:

> (c) (2) If a county has an Emergency Medical Services Fund Advisory Committee that includes both emergency physicians and emergency department on-call back-up panel physicians, and if the committee unanimously approves, the administrator of the Emergency Medical Services Fund may create a special fee schedule and claims submission criteria for reimbursement for services rendered to uninsured trauma patients, provided that no more than 15 percent of the tobacco tax revenues allocated to the county's Emergency Medical Services Fund is distributed through this special fee schedule, that all physicians who render trauma are entitled to submit claims for reimbursement under this special fee schedule, and that no physician's claim may be reimbursed at greater than 50 percent of losses under the special fee schedule.

In conversations with the Administration, they are *not* opposed to the above recommended change. Therefore, it is recommended to modify the proposed trailer language as noted.

B. ISSUES FOR DISCUSSION—Department of Mental Health

1. San Mateo Pharmacy and Laboratory Services Project—Three Issues

Issue. The Administration **is proposing two fiscal adjustments for the San Mateo Pharmacy and Laboratory Project (San Mateo Project).** In addition, the Office of State Audits and Evaluations (OSAE), within the Department of Finance, is in the process of conducting a review of the San Mateo Project, including the forecasting methodologies used to project costs as well as the claims processing system for state reimbursement. Each of these issues is discussed below.

First, a deficiency appropriation of $8.7 million (General Fund) is requested for prior year obligations (from 2004-05 and 2005-06). This request is tied to the accounting error that occurred between the DMH and the Department of Health Services (DHS) which was discussed in the Subcommittee's March 12th hearing as it pertained to the Early Periodic Screening, Diagnosis and Treatment (EPSDT) Program. Unfortunately, the error also affected the San Mateo Project.

Specifically when the Medi-Cal Program, administered by the DHS, shifted to a cash-based accounting system, the DMH did not make adjustments in its programs to appropriately account and budget for this change. As such, the DMH is requesting the $8.7 million General Fund increase to fund prior year obligations as noted.

Second, the DMH is seeking a technical baseline adjustment to reflect a reduction of $139,000 (General Fund) from the current year (2006-07) and a related adjustment of $231,000 ($139,000 General Fund) for the budget year (2007-08). No concerns have been raised regarding this adjustment.

Third, the OSAE has been reviewing the San Mateo Project and will be providing the DMH with recommendations for improvements to budget estimating, claims processing, and other related fiscal aspects of the project. This OSAE analysis is to be released at the end of June, 2007. As such, OSAE is still in their fact finding and review mode and cannot yet provide their recommendations.

According to the DMH's overall work plan on "Medi-Cal Fiscal Services Management", the DMH will be developing an "action plan" to implement fiscal reforms for the San Mateo Project by August 2007.

Background—What is the San Mateo Project? The San Mateo County Mental Health Department has been operating as the mental health plan under a federal Medicaid (Medi-Cal) Waiver agreement and state statute since 1995. This "field test" was enacted into state law to allow the DMH to test managed care concepts in support of an eventual move to a capitated or other full risk model for the delivery of Medi-Cal specialty mental health services.

Effective July 1, 2005, the San Mateo Project was modified but it continues to cover pharmacy and related laboratory services, in *addition* to the required Mental Health Managed Care services that other County Mental Health Plans provide. San Mateo is the only county that has this added responsibility.

The San Mateo Project is funded at $8.8 million ($4.4 million General Fund and $4.4 million federal funds) for 2007-08.

Subcommittee Staff Recommendation. **First,** it is recommended to hold "open" the prior year request for $8.7 million, as well as the budget year reduction, since the Governor's May Revision may propose adjustments to these figures.

Second, it is recommended to adopt the following **two pieces of uncodified trailer bill language** regarding the San Mateo Project. **The first piece of language** pertains to having the DMH conduct a policy analysis of the project. A policy analysis is over due for this 12-year pilot project and it is reasonable that one should be conducted by the Administration and shared with the Legislature. **The second piece of language** pertains to the DMH's commitment to craft an action plan in response to the OSAE's review. This information should be shared with the Legislature to ensure fiscal oversight. The proposed language is as follows:

- The Department of Mental Health, in direct collaboration with the Department of Health Care Services as the state's lead Medicaid entity, shall provide the fiscal and policy committees of the Legislature, by no later than March 1, 2008, with a policy analysis of the San Mateo Pharmacy and Laboratory Services Project. At a minimum this policy analysis shall: (1) articulate best practices learned from the pilot and whether these best practices could be replicated statewide; (2) offer suggestions to improve the project; (3) clarify the project's relationship to other local and statewide efforts related to pharmaceutical usage and purchasing, such as those conducted through the Health Plan of San Mateo and the CalMEND project, as well as others.

- The Department of Mental Health shall provide the fiscal and policy committees of the Legislature, by no later than September 1, 2006, with their action plan to implement fiscal reforms regarding the San Mateo Pharmacy and Laboratory Services Project. This action plan will respond to issues identified by the Office of State Audits and Evaluations, as well as any other applicable concerns identified by the department, stakeholders, and control agencies.

Questions. The Subcommittee has requested the DMH to respond to the following questions.

1. DMH, Please provide a brief overview of the San Mateo Pharmacy and Laboratory Services Project, and the two fiscal requests proposed by the Administration.
2. DMH, Please provide a *brief* perspective on how the department intends to craft a San Mateo Project "action plan".

2. Department's Update on Status of Developing a Plan for Changes to EPSDT

Issue (Hand Out). As directed by the Subcommittee in the March 12th hearing regarding the numerous missteps by the DMH on the management of the Early Periodic Screening Diagnosis and Treatment Program (EPSDT), the DMH has crafted an overall fiscal management plan and will be presenting this plan today for discussion.

Additional Background—Prior Subcommittee Hearing on March 12th. In the March 12th hearing, the Subcommittee expressed significant concerns regarding the numerous missteps by the DMH regarding the management of the EPSDT Program. The funding issue was left "open" due to the need to obtain more information. But two actions were taken. The Subcommittee directed the DMH to prepare a plan and report back on April 30th, and adopted Budget Bill Language regarding the future adoption of policy legislation to craft a framework for the EPSDT Program.

Significant issues have been raised regarding the DMH's administration of the Early, Periodic Screening and Treatment (EPSD) Program. These layers of issues are intertwined and include the following:

- A deficiency request of **at least $302.7 million** (General Fund) for past years owed to the County MHPs, *and* a budget year request for **an increase of $92.7 million** (General Fund);
- An accounting error which represents a significant portion of what is owed to the County MHPs;
- Double billing of the federal government (i.e., Medicaid/Medi-Cal funds) by the state (DMH and DHS);
- A pending federal audit report which *could* have additional General Fund implications;
- A claims processing method (i.e., billing system) which is manually operated;
- Use of an inaccurate methodology for estimating program expenditures for budgeting purposes;
- Use of a "cost settlement" process for closing out costs for past fiscal years;
- A lack of timeliness and accountability on the part of the Administration in informing the Legislature and bringing forth these issues (See hand outs for timeline); and
- Need for the Office of State Audits and Evaluations (OSAE), located within the Department of Finance, to conduct analyses and make recommendations in several areas.

Though monies are owed to County Mental Health Plans (County MHPs) for services provided in the EPSDT Program, the Legislature has a public obligation to conduct due diligence to ensure that public funds are appropriately utilized and that the DMH remedies their administrative missteps which have contributed to this situation.

The seriousness of these issues cannot be overstated. The EPSDT Program is the core public program that provides mental health treatment services to children and their families.

It is imperative for the program to operate effectively and efficiently to ensure that quality services are provided to children and their families, and that providers of services are reimbursed in a timely manner (including County MHPs). Total program expenditures are estimated to be over $1 billion (total funds) for the current year.

Background--Office of State Audits and Evaluations, Department of Finance-- Scope of Work. As noted in the hand out package, the OSAE has been requested by the Administration to conduct several projects, including the following:

- Evaluation of EPSDT budget estimation methodology (was released on March 8th);
- Evaluation of EPSDT comprehensively (to be completed in September 2007);
- Evaluation of all other DMH administered local assistance programs (to be completed December 2007); and
- Evaluation of all DMH accounting and administrative controls (to be completed by January, 2008).

Background-- How the EPSDT Program Operates. Most children receive Medi-Cal services through the EPSDT Program. Specifically, EPSDT is a federally mandated program that requires states to provide Medicaid (Medi-Cal) recipients under age 21 any health or mental health service that is medically necessary to correct or ameliorate a defect, physical or mental illness, or a condition identified by an assessment, including services not otherwise included in a state's Medicaid (Medi-Cal) Plan. Examples of mental health services include family therapy, crisis intervention, medication monitoring, and behavioral management modeling.

Though the DHS is the "single state agency" responsible for the Medi-Cal Program, mental health services including those provided under the EPSDT, have been delegated to be the responsibility of the Department of Mental Health (DMH). Further, County MHPs are responsible for the delivery of EPSDT mental health services to children

In 1990, a national study found that California ranked 50th among the states in identifying and treating severely mentally ill children. **Subsequently due to litigation (T.L. v Kim Belshe' 1994), the DHS was required to expand certain EPSDT services, including outpatient mental health services.** The 1994 court's conclusion was reiterated again in 2000 with respect to additional services (i.e., Therapeutic Behavioral Services—TBS) being mandated.

County MHPs must use a portion of their County Realignment Funds to support the EPSDT Program. Specifically, a "baseline" amount was established as part of an interagency agreement in 1995, and an additional 10 percent requirement was placed on the counties through an administrative action in 2002. **As such counties provided about $77.3 million in County Realignment Funds to support the EPSDT Program in 2006-07.**

Subcommittee Staff Recommendation. **First**, it is recommended to continue to hold open the prior year and budget year fiscal requests pending receipt of the Governor's May Revision.

Second, it is recommended to adopt the following **uncodified trailer bill language** regarding the DMH's work plan.

> The Department of Mental Health (DMH), in direct collaboration with the Department of Health Care Services as the state's lead Medicaid entity, shall provide the fiscal and policy committees of the Legislature with specified work products as contained in the DMH work plan. The purpose of the work plan is to significantly improve the management of fiscal systems as they pertain to the Medi-Cal Program, including the Early Periodic Screening Diagnosis and Treatment Program, Mental Health Managed Care, and Short/Doyle Medi-Cal services. The work products to be provided and their delivery dates include, at a minimum, the following: (1) Accounting and Administrative Control Review recommendations (October 2007); (2) detailed implementation plan to implement Accounting and Administrative Control Review recommendations (March 2008); and (3) Action Plan to address reforms regarding Mental Health Managed Care and Short/Doyle services (March 2008).

Third, it is recommended to modify the Subcommittee's Budget Bill Language as adopted on March 12th to reflect an amendment requested by the Administration. The revised Budget Bill Language is as follows (with underline and strike-out notations to display the changes):

> Item 4440-101-0001 (DMH, Local Assistance)
>
> It is the intent of the Legislature for the department to work collaboratively with the Legislature to develop an appropriate administrative structure for the ~~a restructured~~ Early, Periodic Screening, Diagnosis and Treatment (EPSDT) Program for implementation in 2008-2009, including the passage of legislation to establish the administrative structure ~~program~~ in state statute within the two-year period of the 2007-2008 legislative session.

Questions. The Subcommittee has requested the Department of Mental Health to respond to the following questions.

1. **DMH,** Please provide a brief summary of the DMH Work Plan (Hand Outs).
2. **DMH**, What *key immediate* actions have been taken to-date with respect to EPSDT claims processing, accounting modifications, cost settlement changes or the like?
3. **DMH**, Has the state heard back from the federal CMS regarding the federal audit outcomes? If not, when may this occur?

C. ISSUES FOR DISCUSSION—Both Departments (DHCS & DPH)

1. Proposition 50 Bond Funds-- Extend Limited-Term Positions & Obtain Update

Issue. The budget proposes an increase of $873,000 (Proposition 50 Bond Funds of 2002) to extend seven positions for two years (until June 30, 2009) to continue performing various functions associated with expenditure of the Proposition 50 bond funds for drinking water improvements. The seven positions to be extended include an Environmental Scientist and six Associate Sanitary Engineers. (The Hand Out package contains a current-year and budget-year listing of the Proposition 50 bond fund commitments.)

Presently, the Department of Public Health (DPH) utilizes a total of 20.5 positions, including these seven positions which are set to expire as of June 30, 2007, for Proposition 50 activities.

The DPH states that the renewal of the seven positions is necessary to meet workload needs related to the following key Proposition 50 activities:

- Review technical "pre-applications" for Proposition 50 funding and rank proposals.
- Create a project priority list based on the priority ranking of the projects.
- Evaluate full project applications and prepare extensive technical report documents for each project.
- Review and evaluate the plans and specifications for each project and conduct construction inspections and a final inspection of each project.
- Review proposal for reduction or removal of drinking water contaminants and participate in demonstration projects such as ultraviolet treatment processes.
- Review and comment on draft environmental documents prepared for drinking water projects to assure compliance with the CA Environmental Quality Act (CEQA).
- Review final environmental documents for the department's funded and permitted projects, and prepare review summaries and findings.
- Conduct program fiscal management and administration.
- Conduct final project inspection and certify completion.

The budget request also includes a $50,000 interagency agreement with the Department of General Services to conduct certain CA Environmental Quality Act (CEQA) activities. The DPH states that there are several projects each year that will require specialized CEQA knowledge outside the capabilities of their in-house staff. These include instances where there is a need for biological habitat suitability studies, archeological reports, cultural resources surveys and biological field surveys.

Background—Proposition 50, Statutes of 2002 & Chapters Applicable to the DPH. Proposition 50 was approved by the voters in 2002 to provide funds to a consortium of state agencies and departments to address a wide continuum of water quality issues.

Several chapters within the Proposition 50 bond measure pertain to functions conducted by the Department of Public Health (DPH) as it pertains to the overall Drinking Water Program, including Chapter 3 and Chapter 4 of the Proposition. **The DPH anticipates receiving as much as $485 million over the course of the bond measure. The Hand Out package contains a current-year and budget-year listing of the Proposition 50 bond fund commitments.**

- Chapter 3—Water Security ($50 million). Proposition 50 provides a total of $50 million for functions pertaining to water security, including the following: (1) monitoring and early warning systems, (2) fencing, (3) protective structures, (4) contamination treatment facilities, (5) emergency interconnections, (6) communications systems, (7) other projects designed to prevent damage to water treatment, distribution and supply facilities**. It is anticipated that this total amount will be utilized over a *four-year* period.**

- Chapter 4—Safe Drinking Water ($435 million total for DHS). Proposition 50 provides $435 million to the DHS for expenditure for grants and loans for infrastructure improvements and related actions to meet safe drinking water standards. A portion of these funds will be used as the state's match to access federal capitalization grants (see table below). **It is anticipated that this total amount will be utilized over a *seven-year* period.**

  With respect to the other projects, the Proposition states that the funds can be used for the following types of projects: (1) grants to small community drinking water systems to upgrade monitoring, treatment or distribution infrastructure; **(2)** grants to finance development and demonstration of new technologies and related facilities for water contaminant removal and treatment; **(3)** grants for community water quality; **(4)** grants for drinking water source protection; **(5)** grants for drinking water source protection; **(6)** grants for treatment facilities necessary to meet disinfectant by-product safe drinking water standards; and **(7)** loans pursuant to the Safe Drinking Water State Revolving Fund (i.e., where by the state draws down 80 percent federal match). In addition, it is required that not less than 60 percent of the Chapter 4 funds be available for grants to Southern California water agencies to assist in meeting the state's commitment to reduce Colorado River water use.

Background—Safe Drinking Water State Revolving Fund Program. This program also uses Proposition 50 bond funds as a match to draw down federal funds. The Department of Public Health (DPH) is designated by the federal Environmental Protection Agency as the primacy agency responsible for the administration of the federal Safe Drinking Water Act for California. Under the federal Safe Drinking Water Act (Act), **California receives federal funding to finance low-interest loans and grants for public water system infrastructure improvements. In order to draw down these federal capitalization grants, the state must provide a 20 percent match.**

Senate Bill 1307, Statutes of 1997, enacted the Safe Drinking Water State Revolving Fund. It established the framework to implement the federal Act and authorized the DPH to enter into assistance agreements for capitalization grants with the federal government.

General Fund support was used for a period of time in order to provide the 20 percent state match for the federal grants. Proposition 13 bond funds were then used until these funds were fully expended. **Proposition 50 bond funds are presently being used and will continue until these funds are exhausted for this purpose. Proposition 84 funds will then be used.**

The table below provides a summary of the capitalization grants and state match. It should be noted that, as required by state statute, a very small portion of these funds are "set aside" to be used for small water system technical assistance, capacity development, water security, and source water protection projects.

Table: Safe Drinking Water State Revolving Fund Program

State Fiscal Year	20 Percent State Match	Federal Fund Amount	Total Amount
Current Year	$17 million (Proposition 50)	$84.8 million	$101.8 million
Budget Year	$13.4 million (Proposition 50)	$67.1 million	$80.5 million
2008-09	$13.6 million (Proposition 50)	$68.1 million	$81.7 million
2009-2010	$13.6 million (Proposition 50 &84)	$68.1 million	$81.7 million
2010-2011	$13.6 million (Proposition 84)	$68.3 million	$81.9 million
2011-2012	$15.3 million (Proposition 84)	$76.5 million	$91.8 million
2012-2013	$15.3 million (Proposition 84)	$76.5 million	$91.8 million

Overall Background on DHS Drinking Water Program. The Department of Public Health (DPH) has been responsible for regulating and permitting public water systems since 1915. The Drinking Water Program provides for ongoing surveillance and inspection of public water systems, issues operational permits to the systems, ensures water quality monitoring is conducted and takes enforcement actions when violations occur**. The program oversees the activities of about 8,000 public water systems (including both small and large water systems) that serve more than 34 million Californians.**

Subcommittee Staff Recommendation. It is recommended to approve the requested positions. The work load is justified.

Questions. The Subcommittee has requested the DPH to respond to the following questions.

1. DPH, Please provide a brief update regarding the Proposition 50 grants, and how the budget request would facilitate allocation of the grant funds for projects.

2. Implementation of Proposition 84 Bond Act of 2006 on Safe Drinking Water

Issue. The Department of Public Health (DPH) is requesting two budget adjustments to begin implementation of Proposition 84—the Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Projection Bond Act of 2006.

First, the DPH is requesting an appropriation of $2 million (Proposition 84 Bond Funds) to fund:

- 16.5 staff (primarily engineers, scientists and support staff) at the DPH;
- Contract for $200,000 for technical assistance outreach to disadvantaged and severely disadvantaged communities;
- Contract for $50,000 to analyze and annually update household income data in selected areas which is used to determine "disadvantaged" and "severely disadvantaged" communities as referenced in the proposition;
- Implement an interagency agreement for $50,000 with the Department of General Services (DGS) to conduct certain CA Environmental Quality Act (CEQA) activities. The DPH states that there are several projects each year that will require specialized CEQA knowledge outside the capabilities of their in-house staff. These include instances where there is a need for biological habitat suitability studies, archeological reports, cultural resources surveys and biological field surveys. (This is also done under Proposition 50.)

Second, the DPH is requesting local assistance expenditure authority of $47.3 million (Proposition 84 Bond Funds) for the budget year. In addition, the Administration is proposing Budget Bill Language to enable the $47.3 million to be available for expenditure through 2010. This longer expenditure period provides for flexibility in working with the small community water systems and recognizes the timeframes that some of the projects may require due to the engineering work and construction work often involved in the projects.

The $47.3 million consists of the following components:

- $9.1 million (Proposition 84 Bond Funds) for Emergency Grants. This would appropriate the entire amount available for this purpose.
- $27.2 million (Proposition 84 Bond Funds) for small community water drinking systems. The DPH assumes that this amount will be expended annually, over the course of six-years, for total expenditures of $163 million.
- $9.1 million (Proposition 84 Bond Funds) for prevention and mitigation of ground water contamination. The DPH assumes that this amount will be expended annually, over the course of six-years, for total expenditures of $54.3 million.

Background—Proposition 84, Safe Drinking Water & Water Quality Projects. This act contains several provisions that pertain to the Department of Public Health (DPH). It should be noted that 3.5 percent (annually) of the bond funds are to be used to service the bond costs, and up to 5 percent (annually) can be used for DPH state support expenditures. The remaining amounts are to be used for local assistance. A summary of the provisions for which the local assistance funds can be used is as follows:

- $10 million for Emergency Grants. Section 75021 of the proposition provides funds for grants and direct expenditures to fund emergency and urgent actions to ensure that safe drinking water supplies are available. Eligible project criteria includes, but is not limited to: (1) providing alternate water supplies including bottled water where necessary; (2) improvements to existing water systems necessary to prevent contamination or provide other sources of safe drinking water; (3) establishing connections to an adjacent water system; and (4) design, purchase, installation and initial operation costs for water treatment equipment and systems. Grants and expenditures *shall not exceed $250,000* per project.

- $180 million for Small Community Drinking Water. Under Section 75022 of the proposition, grants for small community drinking water system infrastructure improvements and related actions to meet safe drinking water standards will be available. Statutory authority requires that priority be given to projects that address chemical and nitrate contaminants, other health hazards, and by whether the community is disadvantaged or severely disadvantaged.

  Eligible recipients include public agencies, schools, and incorporated mutual water companies that serve disadvantaged communities. Grants may be made for the purpose of financing feasibility studies and to meet the eligibility requirements for a construction grant.

  Construction grants are limited to $5 million per project and not more that 25 percent of the grant can be awarded in advance of actual expenditures. Up to $5 million of funds from this section can be made available for technical assistance to eligibility communities.

- $50 million for Safe Drinking Water State Revolving Fund Program. As discussed under Agenda issue #1—Proposition 50 implementation, the Safe Drinking Water State Revolving Fund Program enables California to provide a 20 percent state match to draw down federal capitalization funds. Once the Proposition 50 bond funds are exhausted for this purpose, the Proposition 84 bond funds will be used. This conforms to Section 75023 of the proposition.

- $60 million Regarding Ground Water. Section 75025 provides for grants and loans to prevent or reduce contamination of groundwater that serves as a source of drinking water. Statutory language requires the DPH to require repayment for costs that are subsequently recovered from parties responsible for the contamination. Language in the proposition also provides that the Legislature may enact additional legislation on this provision as necessary.

Subcommittee Staff Recommendation—Hold Open. No issues have been raised regarding the request for the 16.5 positions. In addition, the Safe Drinking Water Division within the department has managed previous water bond projects well. However, discussions are ongoing regarding other bond appropriations within the budget process; therefore, it is recommended to hold this issue open pending May Revision to ensure continuity across the Subcommittees within the Senate.

Questions. The Subcommittee has requested the DPH to respond to the following questions.

1. **DPH**, Please provide a brief summary of Proposition 84 as it pertains to the DPH, and how the budget proposal specifically meets this intent.
2. **DPH**, When will the Proposition 84 criteria be released by the DPH?
3. **DPH**, Specifically, what will the DPH be doing to encourage and assist disadvantaged and severely disadvantaged communities to apply for grants?

3. Personalized Provider Directories for Medi-Cal Managed Care—Trailer Bill

Issue. The Department of Health Care Services (DHCS) is proposing trailer bill language to save $2 million ($1 million General Fund) by changing how the Medi-Cal Managed Care Program structures the provider directories provided to each person enrolling into a Medi-Cal Managed Care Program. The savings assumed by the DHCS are from a reduction in paper, printing, provider directory packet assembly and postage costs.

According to the DHCS, they want to implement a *"personalized"* provider directory which would enable the "health care options" process to provide up-to-date, accurate, enrollee-friendly provider information to be distributed to enrollees based on their area of residence, school, or work address or other address specified by the applicant, at a reduced administrative cost to the state.

The DHCS proposal requires trailer bill language since existing law requires that Medi-Cal Managed Care enrollees receive provider directories listing *all* primary care providers, clinics, specialists, and hospitals participating in *each* managed care plan.

Specifically, the trailer bill language proposed by the Administration does the following:

- Provides the DHCS with *considerable flexibility* in how the department may provide health care options information. Specifically it provides, at the department's discretion, that health care options information may be provided by telephone, mail, in person, or online in order to provide beneficiaries with maximum access to the information.
- Provides the DHCS with *considerable flexibility* regarding the geographic area to be used by the department to provide information to the Medi-Cal recipient. Specifically the language states that the department can use *any* individualized geographic areas as they determine including a Medi-Cal applicant's residence address, the minor applicant's school address, the applicant's work address, *or* any other factor as deemed appropriate by the department.
- Enables a Medi-Cal applicant or enrollee to receive, *but only if specifically requested*, the directories of the entire service area of the health care plans participating in the Medi-Cal Managed Care Program.
- Requires participating health care plans to provide updated information regarding their provider networks to the DHCS on a monthly basis and to send this information electronically.

Background—Providing Choice to Medi-Cal Managed Care Enrollees. The Medi-Cal Program is required to provide a choice of health care providers to Medi-Cal recipients enrolling into managed care. In order to meet this requirement, the DHCS does the following:

- Contracts with an enrollment contractor (Maximus), as discussed in more detail below.
- The enrollment contractor (Maximus) is required to mail health plan selection materials to the Medi-Cal eligible within three business days. These materials are comprised of a county-wide provider directory, and an "informing booklet" containing the Consumer Guide, Plan Comparison Chart and Choice Form (to select a participating health care plan).
- The enrollment contractor performs an evaluation of each Medi-Cal eligible (interested in managed care)to determine the type of notification to be sent, based on aid code, zip code, language and county code.
- The Medi-Cal eligible person has 45 days to choose a plan or one will be automatically assigned to them (defaulted).
- 13 days after the original mailing, a reminder notice is sent if no choice has been made.
- The Medi-Cal eligible person can indicate their choice of a personal care physician on their choice form and that information is forwarded to the plan of choice.
- The enrollment contractor also offers face-to-face presentations explaining the managed care program and how to make a health care plan choice. These presentations are available at both the County Social Services Department (since Medi-Cal eligibility is conducted here) and at some community-based organizations.

Background—Health Care Options Enrollment Contractor. Under Medi-Cal Managed Care, there is a "health care options" contractor who is responsible for enrolling Medi-Cal recipients into participating health plans in the Two Plan Model areas (12 counties), the two Geographic Managed Care regions (Sacramento and San Diego), and two other counties where managed care is an option (Sonoma and Marin). (It should be noted that County Organized Health Care Systems (COHS) are not included in the health care options process since COHS are their own plan.)

Maximus, Inc. is presently the enrollment contractor for the Medi-Cal Managed Care Program, and has been since October 1, 1996. The current contract is expected to end on September 30, 2008 (a new state bid process will have to be executed for the next contract period).

Background—Overview of Medi-Cal Managed Care. The DHCS is the largest purchaser of managed health care services in California with over 3.2 million enrollees, or about 50 percent of enrollees, in contracting health plans.

The state's Managed Care Program now covers 22 counties through **three types of contract models—Two Plan Managed Care, Geographic Managed Care, and County**

Organized Health Systems (COHS).

Each of these models is briefly described below.

- *Two-Plan Model.* The Two Plan Model was designed in the 1990's. The basic premise of this model is that CalWORKS recipients (women and children) are automatically enrolled (mandatory enrollment) in either a public health plan (i.e., Local Initiative) or a commercial HMO. Other Medi-Cal members, such as aged, blind and disabled, can voluntarily enroll if they so choose. About 74 percent of all Medi-Cal managed care enrollees in the state are enrolled in this model.

- *Geographic Managed Care Model.* The Geographic Managed Care model was first implemented in Sacramento in 1994 and then in San Diego County in 1998. In this model, enrollees can select from multiple HMOs. The commercial HMOs negotiate capitation rates directly with the state based on the geographic area they plan to cover. Only CalWORKS recipients are required to enroll in the plans. All other Medi-Cal recipients may enroll on a voluntary basis. Sacramento and San Diego counties contract with nine health plans that serve about 11 percent of all Medi-Cal managed care enrollees in California.

- *County Organized Healthy Systems (COHS).* Under this model, a county arranges for the provision of medical services, utilization control, and claims administration for **all** Medi-Cal recipients. Since COHS serve all Medi-Cal recipients, including higher costs aged, blind and disabled individuals, COHS receive higher capitation rates on average than health plans under the other Medi-Cal managed care system models. About 550,000 Medi-Cal recipients receive care from these plans. This accounts for about 16 percent of Medi-Cal Managed Care enrollees.

Concerns from Constituency Groups. The Subcommittee is in receipt of several letters, from both health plans participating in Medi-Cal Managed Care as well as consumer groups, expressing concerns with the proposed trailer bill language. Some of these concerns include the following:

- Provides broad discretion to the DHCS to create the personalized directories;
- Limiting the provider directory to 24-pages to list providers would be too limiting in many zip codes where there are many clinics and physicians. This could potentially limit the number of providers listed to under a 10 miles radius further restricting the perception of limits on choice.
- Prospective enrollees might not be aware that the directory is partial and not see their current provider and therefore, not choose the plan that actually has contracted with the provider;
- The limited provider directory will *not* provide information on specialist available with a network; and
- The limited provider directory would be difficult to compile with sufficient information for prospective members to understand "provider network rules".

Subcommittee Staff Recommendation—Hold Open. It is recognized that Medi-Cal enrollment materials, including materials regarding the choice of Managed Care plans, need to be streamlined and simplified.

However, the Administration's trailer bill language is poorly crafted. It gives broad discretion to the DHCS and the Administration needs to do more work with constituency groups to see where a compromise can be reached.

Therefore, it is recommended to hold this issue open pending May Revision in order to reach a compromise on the language.

Questions. The Subcommittee has requested the DHCS to respond to the following questions.

1. Medi-Cal, Please briefly describe the existing provider directory process and how the changes proposed in the budget process would modify this process. What are the pros and cons of the department's proposed changes?

4. Third Party Health Plan Recoveries—Proposed Trailer Bill Language

Issue. The Administration is proposing trailer bill language to modify state statute to comply with certain requirements regarding Medicaid (Medi-Cal) cost avoidance and cost recovery activities as contained in the federal Deficit Reduction Act (DRA) (Section 6035) of 2005.

The DHCS states that California statute does not comply with the federal DRA which requires pharmacy benefit managers and self-insured plans to be liable to Medi-Cal as third party health insurers. As a result, Medi-Cal is unable to avoid costs and recover funds from these entities.

The DHCS also states that third party carriers can deny the Medi-Cal Program's claims for recovery based on procedural reasons (such as untimely filing and claim format). The DRA states that a health insurer cannot deny a claim solely on the basis of the date of submission of the claim, the format of the claim, or not having proper documentation at the point-of-sale.

Specifically the language would modify state statute to **(1)** revise the definition of "private health care coverage"; **(2)** expand the state's ability to submit claims to health insurance carriers by enabling follow-up action for a period of up to six years after the DHCS' original claim was submitted; and **(3)** restrict health insurance carriers from denying the state's claims based solely on timelines, claim format, or the state's failure to immediately provide documentation.

The DHCS believes that these state statutory changes will enable them to increase recoveries by about $2 million ($1 million General Fund) due primarily to the inclusion and responsibility of pharmacy benefit managers, as a legally defined health insurer, to pay claims for health care items or services provided to Medi-Cal Program enrollees.

Background—Federal Deficit Reduction Act (DRA) of 2005. Among many things, the DRA specifies that self-insured plans, managed care organizations, pharmacy benefit managers, and other statutorily or contractually liable parties are included as legally responsible third parties for payment of a claim for a health care item or service.

Additionally, the DRA requires insurers to submit eligibility and claims data for Medi-Cal enrollees on a regular basis to enhance identifying third party health coverage. It also reinforces the Medi-Cal Program's rights by requiring insurers to pay claims for Medi-Cal enrollees that are submitted within three years of the date of service, regardless of the format of the claim.

Historically, pharmacy benefit managers and self-insured plans have contended that they are not legally defined as health insurers and, therefore, not responsible for payment of claims, or subject to Medi-Cal's timely filing requirements and subrogation rights. Over the years, the Medi-Cal Program has had little success in recovering funds from these entities.

Subcommittee Staff Recommendation—Approve Language and Adjust Funding. The DHCS has not received any concerns with respect to this trailer bill language, nor has the Subcommittee. The language would conform state statute to federal law. **Therefore, it is recommended to approve the trailer bill language as proposed. In addition, it is recommended to reduce the Medi-Cal local assistance budget by $2 million ($1 million General Fund) to reflect the fact that this language will save funding.** The DHCS acknowledges this fact but inadvertently did not capture the savings when crafting the budget.

Questions. The Subcommittee has requested the DHCS to respond to the following questions.

1. DHCS, Please provide a brief summary of the proposed trailer bill language and how it conform state law to federal statute.

5. Protection of DHCS Director's Right to Recover Medi-Cal Expenses—Proposed Trailer Bill Language

Issue. The Administration is proposing trailer bill language as the result of a recent United States Supreme Court decision in *Arkansas Department of Health and Human Services v. Ahlborn* (2006) (Ahlborn) that held recovery of a personal injury lien for Medicaid services was limited to the portion of the settlement that represented payment for medical expenses.

The DHCS states that as a result of *Ahlborn*, there is no requirement that the portion of the settlement allocation dedicated to medical expenses be *sufficient* to repay the states' actual costs of providing the health care (through Medi-Cal). Therefore, settlements may be manipulated by others to claim that a minimal amount was allocated to medical expenses, or that medical expenses be waived altogether. As such the ability of the DHCS to participate in or to decide the reduction of the Medi-Cal lien could be circumvented, or recovery defeated altogether.

The DHCS contends that unless modified, settlement manipulation would benefit attorneys because more funds would be allocated to their client, versus repayment to the Medi-Cal Program for services rendered. Insurance carriers would also benefit because the pain and suffering portion of a personal injury settlement is routinely based on the scope and amount of medical treatment the injured party received.

Background. Both federal and state laws require the state to seek reimbursement of Medi-Cal funds expended on behalf of Medi-Cal enrollees when a third party is liable. This is because Medicaid (Medi-Cal) is a payer of last resort.

The DHCS Medi-Cal Program has a Personal Injury Recovery Program to mitigate Medi-Cal costs. The Director of the DHCS is required to seek recovery from third parties for Medi-Cal funds expended for injury-related services and to ensure that Medi-Cal is the payer of last resort. The Personal Injury Recovery Program identifies the third parties and recovers Medi-Cal expenditures by asserting claims for the state in personal injury tort actions. Half of all recovered funds are returned to the General Fund, and the other portion is returned to the federal government (since they provide the match).

Existing state law provides a framework for applying the personal injury recovery process. Section 14124.72 (d) requires a 25 percent reduction of the state's claim plus a pro-rated share of litigation costs, which represents the state's reasonable share of attorney fees when a Medi-Cal recipient obtains legal representation for his or her personal injury case. Section 14124.78 requires the state to reduce its claim to half of the net settlement amount, which permits the Medi-Cal recipient to receive the other half of the settlement. This statute provides a monetary incentive for Medi-Cal recipients to pursue a settlement for his or her personal injury case. The net amount is the remainder of the settlement *after* deducting the full amount of the attorney's fees and litigation costs.

Subcommittee Staff Recommendation--Approve. The DHCS contends that the Medi-Cal Program could potentially loose $22 million (General Fund) annually from not recouping on personal injury actions that pertain to a Medi-Cal enrollee and a third-party judgment. The DHCS has not received any letters of opposition, nor has the Subcommittee. Therefore, it is recommended to adopt the proposed trailer bill language.

Questions. The Subcommittee has requested the DHCS to respond to the following questions.

1. DHCS, Please provide a summary of how the Medi-Cal lien process works now when a third-party judgment is involved, and how the *Ahlborn* case changed this process.
2. DHCS, Please then explain how the proposed trailer bill language then enables the state to obtain recovery of funds.

6. Planning & Development for Replacement Medi-Cal Management Info System

Issue. The Administration is requesting resources to begin *preliminary* work needed to re-procure the Medi-Cal fiscal intermediary contract, including a Medi-Cal Management Information System (MMIS) replacement component. This is a significant undertaking and will proceed over the course of the next several years. The Administration assumes that the state will receive 90 percent federal matching funds for this replacement MMIS

There are two budget requests related to this process.

First, they are requesting $1 million ($500,000 General Fund) in the Medi-Cal Program to contract with a vendor to develop detailed business requirements and provide assistance with the next "Request for Proposal" (RFP) for MMIS maintenance and operations. The DHCS states that the vendor will be selected from the CA multiple award schedule contractor list.

Second, they are requesting a total increase of $2.7 million ($677,000 General Fund) to fund 24 positions on a three year limited-term basis (July 1, 2007 to June 30, 2010). Of these requested positions, 22 would be in the Department of Health Care Services (DHCS) and two would be in the Department of Public Health (DPH). The table below provides a listing of these positions.

The Administration states that these positions are necessary to assist with the identification and development of the (1) MMIS business rules; (2) "Medi-Cal Information Technology Architecture"; (3) "Planning Advance Planning Document"; (4) "Implementation Advanced Planning Document"; and (5) Request for Proposal (RFP). Several of these documents are necessary in order to meet federal CMS requirements as outlined below.

In addition, these staff are to provide subject matter expertise, oversee various contractors assisting in this effort, approve contractor invoices, and verify and document thousands of medical and business rules that constitute the MMIS.

The requested positions are listed in the table below.

Division To Receive Positions (24 total)	Type and Number of Positions Requested
Payment Systems Division (9 total positions)	• Data Processing Manager IV • Data Processing Manager I • Staff Services Manager I • 3 Staff Information Systems Analysts • 3 Associate Governmental Program Analyst
Medi-Cal Managed Care Division	• Associate Governmental Program Analyst
Medi-Cal Policy Division (7 total positions)	• Staff Services Manager I • Medical Consultant II • Nurse Consultant III • 4 Associate Governmental Program Analysts
Medi-Cal Operations Division (2 total positions)	• Field Office Administrator II • Nurse Consultant III
Primary Care & Family Health Division (5 total positions, two would be in the DPH)	• Nurse Consultant III • 3 Associate Governmental Program Analyst • Health Program Specialist I

The federal CMS has requirements for states to follow as they replace their MMIS systems. Specifically, they have a **"Medicaid Information Technology Architecture" (MITA)** initiative which addresses mainstream technical architecture and business planning concepts. As part of this process, the federal CMS requires states to conduct "Self Assessments", which includes the following components: (1) list and prioritize the state's goals and objectives; (2) define the state's current business model and map to the federal MITA initiative; (3) assess the state's current capabilities; and (4) determine the state's target business capabilities.

The federal CMS also requires an "Advance Planning Documents" to be prepared in order to receive "enhanced federal funds" (90 percent match) for the project.

Table: DHCS Proposed Timetable for Completion of Process

Task Name	DHCS Start Date	DHCS End Date
Develop Medi-Cal Information Technology Architecture	July 2, 2007	October 4, 2007
Identify, Verify & Document Medi-Cal Policy Rules	August 1, 2007	July 15, 2008
Draft Request for Proposal (RFP)	September 1, 2007	June 24, 2008
Release RFP	August 25, 2008	August 25, 2008
Evaluation of RFP Bids	August 26, 2008	April 30, 2009
Notice of Intent to Award	April 31, 2009	April 31, 2009

Background—Contract with "Eclipse Solutions" for MMIS Assessment. In March 2006, the DHCS contracted with Eclipse Solutions to perform an assessment of the MMIS. This assessment noted the following key aspects:

- The MMIS needs to be replaced as soon as possible. The core MMIS components have reached a point where continued maintenance is problematic and costly.
- California must ensure that the replacement take place within the guidelines sponsored by the federal CMS regarding the "Medicaid Information Technology Architecture" (MITA) initiative. This is necessary to meet requirements and to maximize federal funding.
- The DHCS must properly identify all Medi-Cal business rules and policies deeply imbedded in system logic today. This is necessary so a comprehensive RFP can then be developed.

Background—Fiscal Intermediary Contract & the Medi-Cal Management Information System (MMIS). The DHCS administers the Medi-Cal Program, including the management and monitoring of the Fiscal Intermediary contract which maintains the Medi-Cal Management Information System (MMIS). This system is presently operated through a $184 million (total funds) per year administrative contract with Electronic Data Systems Corporation (EDS), as the state's "Fiscal Intermediary".

The last "Request for Proposal" (RFP) was awarded to the EDS for the time period of February 1, 2003 through June 30, 2007, with the ability of the DHCS to add on three one-year extensions. Therefore, the legal authority for an executed RFP to operate the MMIS ends June 30, 2010, at the latest.

The MMIS is a critical component of the administration of the Medi-Cal Program. The MMIS

can be viewed as a portfolio of applications, at the core of which is the claims processing system, along with its support subsystems for maintenance of provider, recipient, and reference data, and reporting. The technical footprint consists of over 90 applications written in seven computer languages, managed through five different software version management tools, five data management systems, and hosted across three major hardware architectures.

The primary purpose of the MMIS is to assure timely and accurate claims processing for the 100,000 Medi-Cal providers (physicians, hospitals, clinics, pharmacies, etc.) who submit claims for reimbursement for services provided to over 6 million Medi-Cal enrollees. The system processes about 16 million claims every month.

According to the DHCS and consultants, the MMIS has significantly exceeded the average industry lifespan for an information technology system of its size. The MMIS was first implemented in 1978 and is approaching 30 years of age. Based upon its size and the funding acquisition, and approval process that will likely be involved, the replacement of the MMIS is likely to take several years at least

The DHCS states that the Medi-Cal Fiscal Intermediary contract is one of the largest and most complex contracts in state government. It is anticipated that the next contract will likely be valued in the $700 million to $1 billion range for a multi-years contract covering from July 2010 to June 2015.

Legislative Analyst's Office Recommendation—Reduce Request by 7 Positions. The LAO recommends reducing by 7 positions the DHCS request. This would provide for a total of 17 approved positions for the two departments (i.e., 15 for the DHCS and two for the DPH).

The LAO contends that a substantial portion of the workload DHCS staff would be required to perform will depend upon the work the contractor is able to perform and, as such, remains undetermined until the contractor begins its work.

The LAO would deny the following positions from the DHCS budget request: (1) four Associate Governmental Program Analysts; (2) a Staff Information Systems Analyst; (3) a Nurse Consultant III; and (4) a Staff Services Manager.

Subcommittee Staff Recommendation--Modify. **First**, it is recommended to modify the $1 million in contractor expenditures to reflect the fact that the state can receive a 75 percent federal match for this work, not the 50 percent match assumed. As such, a savings of $250,000 (General Fund) can be achieved (i.e., $1 million of which $750,000 is federal match). **Second**, it is recommended to concur with the LAO on the staffing reduction.

Questions. The Subcommittee has requested the DHCS to respond to the following questions.

1. **Administration**, Please provide a brief summary of the need for the MMIS project and how the budget request is to address that need.

7. Information Technology Support for Third Party Liability Medicare Operations

Issue. The DHCS is proposing an increase of $729,000 ($182,000 General Fund) to fund 5 positions to support system modifications created for implementation of the federal Medicare Part D Drug Program. The requested positions include three Associate Information Systems Analysts, a Staff Information Systems Analyst, and an Associate Information Systems Analyst. In addition, the proposal will also provide $180,000 annually to the Data Center for specified operations.

The DHCS states that information services technology resources are needed to provide system support for the interfaces needed to process Medicare and Medi-Cal dual eligible transactions accurately and quickly. **Specifically, these positions are to do the following key activities:**

- Implement required business rule changes for the system;
- Complete nine interfaces and monthly exchanges of Medicare Part D data with the federal CMS;
- Maintain new Medicare Part D Drug Program computer modules;
- Complete data reconciliations; and
- Monitor the system overall.

Background—Federal Medicare Part D Drug Program. The federal Medicare Part D Drug Program shifts responsibility for prescription drug coverage for individuals eligible for both the Medi-Cal Program and Medicare Program ("dual eligibles") from the state to the federal government. To comply with the federal regulations, existing Medi-Cal automated systems are being modified to interface appropriately with Medicare Part D systems. The DHCS states that a team of 11 contractors were hired in 2005 to develop new sub-systems (Medicare Part D related modules) and enhancements to over 40 existing system modules.

Legislative Analyst's Office Recommendation—Delete Two Positions. The LAO notes that the DHCS request for 5 positions does not reflect that many of the functions these positions would perform are one-time in nature. For example, the modification of existing Medi-Cal automated systems to interface with Medicare Part D systems should nee to occur only once. Furthermore, some of the workload cited to justify these positions should be completed before the start of the budget year.

Therefore, the LAO recommends deleting two Associate Information Systems Analyst positions from the request for savings of $592,000 ($148,000 General Fund). No issues were raised regarding the $180,000 for the Data Center use.

Subcommittee Staff Recommendation—Concur with LAO. It is recommended to concur with the LAO and delete the two positions.

Questions. The Subcommittee has requested the DHCS to respond to the following question.

1. DHCS, Please provide a brief description of the budget request and why the positions are requested for the interface with the Medicare Part D Drug Program.

8. Continuation of Federally Funded Bioterrorism Efforts *(See Hand Out)*

Issue. The Department of Public Health (DPH) **is proposing to extend 94.8 limited-term positions scheduled to expire as of June 30, 2007, for an additional two-years (to June 30, 2009), for expenditures of $8.7 million** (federal grant funds from the federal Centers for Disease Control, and from the Health Resources and Services Administration). In addition to these 94.8 limited-term positions, there are also 10 permanent DPH positions which focus on these efforts. The 94.8 limited-term positions were authorized for two years through the Budget Act of 2005. However, many grant functions first commenced in 2002 and 2003 as discussed in the background section below.

As noted in the table below, the 104.8 total positions are located in several sections throughout the DPH, with many being in the Emergency Preparedness Office and in Prevention Services. A description of the 94.8 limited-term positions to be extended is contained in the Hand Out package.

Table: Summary of DPH Positions Funded with Federal Grants for Bioterrorism Efforts

Name of Department of Public Health Division/Section	Number of Positions
• Emergency Preparedness Office	46.8 Total Positions
• Prevention Services	55.0 Total Positions
o Binational Border Health	2
o Division of Communicable Disease Control	34
o Division of Drinking Water & Environmental Mgmt	7
o Division of Food, Drug & Radiation Safety	8
o Division of Laboratories	3
• Office of Public Affairs	1.0 Total Positions
• Accounting	2.0 Total Positions
TOTAL Positions for DPH	**104.8 Total Positions** ***(94.4 limited-term)***

According to the DPH, these positions support ongoing emergency preparedness workload to prepare for and manage the state's response to public health emergencies through functions such as planning response procedures, laboratory testing, public information, surveillance and epidemiology, electronic communications, operation of the public health "Joint Emergency Operations Center", training DPH and local health jurisdiction staff, management of emergency supplies of pharmaceuticals, oversight of local health jurisdiction preparedness, and coordination of public health and medical care response capabilities.

The DPH notes that they are responsible for detecting and responding to all bioterrorism acts. Regardless of the source, surveillance of infectious diseases, detection, and investigation of outbreaks, identification of etiologic agents and their modes of transmission, and the development of prevention and control strategies are the responsibility of state and local public health agencies.

Background—Federal Law & Grants. The Emergency Supplemental Appropriations for Recovery & Response to Terrorist Attacks on the US Act (Public Law 107-117 of 2002), and subsequent federal legislation, provided states with additional federal funds to support and address both local and state concerns regarding the threat of bioterrorism.

Under this federal law there are two *key* funding streams made available to California—one from the federal Centers for Disease Control (CDC), and one from the federal Health Resources and Services Administration (HRSA). The CDC grant is in support of state and local public health measures to strengthen the state against bioterrorism. California allocates 70 percent of the CDC grant funds to support local public health jurisdictions and DPH state operations within the remaining 30 percent.

The HRSA grant is for the development and implementation of regional plans to improve the capacity of hospitals, their emergency departments, outpatient centers, emergency medical systems and related matters. Among other things, the HRSA grant has provided funding for over 300 of California's approximately 400 hospitals to purchase medical supplies and equipment such as pharmaceutical caches, personal protective equipment, communications equipment, cots, emergency generators, and isolation capacity systems.

The table below summarizes the total federal funds that have been received from these grants to date. These funds have been used for both state and local health jurisdiction purposes.

CDC Award	Year 3	Year 4	Year5	Year 6	Year 7	Total
Description	8/01 - 8/03	8/03 - 8/04	8/04 - 8/05	8/05 - 8/06	8/06 - 8/07	
Amount (in millions)	$62.1	$70.1	$59.2	$67.2	$72.0	$330.6 Total

HRSA Award	Year 3	Year 4	Year5	Year 6	Year 7	Total
Description	9/02 - 8/03	9/03 - 8/04	9/04 - 8/05	9/05 - 8/06	9/06 - 8/07	
Amount (in millions)	$0.96	$38.0	$38.9	$39.2	$38.3	$164.36 Total

It should be noted that the DPH is required to provide the Legislature with annual information regarding the expenditure of these funds, as well as funds expended by the Office of Homeland Security and related state entities involved in these efforts. The 2006 report has been received.

The federal government also has specified goals, outcomes and measurements which the DPH must report on in order to obtain the federal grant funds.

Subcommittee Staff Recommendation--Approve. It is recommended to approve the request to continue the 94.8 positions using federal grant funds as noted. No issues have been raised.

Questions. The Subcommittee has requested the DPH to respond to the following questions.

1. DPH, Please provide a brief summary of the budget request, including key activities that the positions have and will perform.

9. Audit Positions--Reviewing Expenditures of Local Federal Bioterrorism Efforts

Issue. The Subcommittee is in receipt of a Finance Letter which requests an increase of $347,000 (Reimbursements from the DPH which are federal bioterrorism funds) for the Department of Health Care Services to fund three Health Program Auditor IV positions to comply with existing state statute regarding audits. These positions would be two-year limited-term (to June 30, 2009).

Specifically, Section 101317 (g) (3) of the Health & Safety Code requires that the Administration audit each local health jurisdiction's use of the federal bioterrorism and emergency preparedness funds every three years, commencing in January 2007, to determine compliance with federal requirements and consistency with overall program requirements.

The Department of Health Care Services would conduct these audits under an interagency agreement with the Department of Public Health who administers these federal grant funds (both the federal Centers for Disease Control grant and the Health Resources and Services Administration grant).

According to the DPH, Local Health Jurisdictions have received a total of about $130 million (federal grant funds) from 1999 to 2006 for various bioterrorism and emergency preparedness activities and functions.

Subcommittee Staff Recommendation—Approve & Add Trailer Bill Language. It is recommended to approve the positions and to amend Section 101317(g)(3) as follows:

> (3) It is the intent of the Legislature that the department shall audit the cost reports every three years, commencing in January 2007, to determine compliance with federal requirements and consistency with local health jurisdiction budgets, contingent upon the availability of federal funds for this activity, and contingent upon the continuation of federal funding for emergency preparedness and bioterrorism preparedness. All cost compliance reports and audit exceptions or related analyses or reports issued by the Department of Public Health regarding the expenditure of funding for emergency and bioterrorism preparedness by local health jurisdictions shall be made available to the Legislature upon request.

The purpose of amending this section is to enable the Legislature to obtain information readily without having to seek a public information request.

Questions. The Subcommittee has requested the Administration to respond to the following questions.

1. Administration, has any existing fiscal review or audit activity identified any concerns with how Local Health Jurisdictions have expended funds? If so, how were the concerns addressed?
2. Administration, Please describe the budget request and how the positions are to be used.

10. Trailer Bill Legislation for Federal Bioterrorism Local Assistance Funds

Issue. The Administration is proposing trailer bill language **to extend for 5 years** existing state statute regarding the federal funding for bioterrorism preparedness at the local level. This proposed extension would affect Sections 10315 through 101320 of the Health & Safety Code. Existing statute sunsets as of September 1, 2007.

The Administration states that it is seeking this extension for two key reasons. **First,** the existing allocation methodology appears to be working and they would like to continue the current practice (Generally, after a baseline minimum, each Local Health Jurisdiction receives funds based upon a per capita amount). **Second,** the Administration wants to continue the existing exemption from public contract code requirements. The DPH contends that without this exemption from public contract code, they would be required to engage in a lengthy contracting process that would prevent full expenditure of the federal emergency preparedness funds during the federal award year, and would seriously delay meeting emergency preparedness requirements.

Background-- Existing State Statute for Local Allocations: Existing statute provides a framework for the DHS to contract with, and allocate to, Local Health Jurisdictions for expenditure of bioterrorism funds (local assistance).

Among other things, existing statute (1) requires the DHS to develop a plan with representatives of local governments for submittal to the federal government for receipt of the grant funds, (2) requires the DHS to develop a streamlined process for continuation of bioterrorism preparedness funding that will address any new federal requirements and will assure continuity of local plan activities, (3) enables the DHS to contract with public or private entities to meet the federally-approved bioterrorism plan and these contracts shall be exempt from the State Contract Act, and (4) enables the DHS to allocate these funds to Local Health Jurisdictions *generally* on a per capita basis.

Background—Legislative History. Discussions regarding the allocation and expenditure of federal bioterrorism funds at the local level have occurred in both the fiscal and policy committee processes. Key legislation has been as follows:

- Chapter 1161, Statutes of 2002. This Omnibus Health Trailer bill established the purposes to which federal funding for bioterrorism and other public health threats may be allocated and expended.
- Senate Bill 406 (Ortiz), Statutes of 2002. This legislation appropriated new federal funding and established procedures by which federal funds could be allocated and expended by Local Health Jurisdictions. It also provided for the allocation of funds by agreements that would not be subject to the Public Contract Code.
- Senate Bill 678 (Ortiz), Statutes of 2004. This legislation adjusted the expenditure authority for the funds and broadened the exemption to public contract code requirements.
- Chapter 228, Statutes of 2004. This Omnibus Health Trailer bill enacted a sunset date of January 1, 2008 to the management of the provisions contained in Sections 101315 through 101320. These sections provide the authority and guidance for distribution of

public health emergency preparedness funds to the Local Health Jurisdictions.

Subcommittee Staff Recommendation—Extend for 3 Years. In order to better ensure oversight of this area by the Legislature, it is recommended to extend the sunset by three-years, versus the proposed five-years.

Questions. The Subcommittee has requested the DPH to respond to the following question.

1. DPH, Please provide a brief description of the requested trailer bill language.

11. Adjustments to the "Surge" Proposal Regarding Health Care Capacity

Issue. In response to a letter from the Joint Legislative Budget Committee, chaired by Senator Ducheny, the Administration has submitted a Finance Letter to the Subcommittee requesting two adjustments to the Governor's January budget. **First**, the Administration is proposing to revert $37.7 million (General Fund) in unexpended funds in the current-year originally appropriated in the Budget Act of 2006 for certain health care supplies and equipment as part of the Administration's "Surge Initiative".

Second, the Finance Letter requests a *reappropriation* of $8.5 million (General Fund) from the 2006-07 appropriation for the Surge Initiative, and to authorize expenditure of this funding until June 30, 2011. The purpose of this reappropriation is to enable the Department of Public Health (DPH) to store certain medical supplies purchased for "surge" events in regional warehouses over a 48-month period. The Administration is proposing Budget Bill Language which accompanies this reappropriation as well.

The Administration notes that since enactment of the Budget Act of 2006, they have received additional information regarding the content of the medical caches to be purchased for "alternative care sites" as originally proposed in the Surge Initiative, and the storage approach for these supplies. The impact of these changes is a reduction in the cost of each cache. In addition, storage needs shifted from purchasing trailers for this purpose to relying on leased warehouse space which can better manage perishable supplies (refrigeration is easier in this environment).

The revised cache, which covers a longer patient stay and a mix of supplies for a broader range of emergencies, is estimated at $1,600 per patient (versus $4,000 per patient previously). Most of the cost reductions are due to the purchase of a smaller number of monitors (EKG monitors and pulse oximeter monitors) and elimination of the trailers for storage (going to use warehouse space).

With respect to the warehouse storage, funds are needed for the lease of warehouse space. The additional costs for warehouse space include leasing 283,280 square feet of space for 48 months, installation of HVAC, pallet racks, security, utilities and leasing fees (done through the Department of General Services). This will require the $8.5 million (General Fund) reappropriation for the three-year period.

Background—Budget Act of 2006 and the "Surge Initiative". During emergency events, the health care system must convert quickly from their existing patient capacity to "surge capacity"—a significant increase beyond usual capacity—to rapidly respond to the needs of affected individuals. Local health departments and communities must be prepared to address gaps when the capacity of health care systems is exceeded.

Among many other actions regarding emergency preparedness, the Legislature appropriated $194.8 million (total funds) to the Department of Health Services to address health care "surge" capacity needs, including the purchase and storage of alternate care supplies, equipment, antivirals, and respirators. Specifically, the Administration is purchasing 3.7 million treatment courses of antivirals, 25 million respirators, and supplies to

operate 21,000 alternate care site beds.

Need for Quarterly Report to Legislature—Over Due. As part of the bipartisan agreement regarding the Surge Initiative, the Legislature and the CA Health & Human Services (CHHS) Agency agreed to trailer bill language as contained in Chapter 74, Statutes of 2006, (Omnibus Health Trailer Bill).

Section 82 of this legislation requires the CHHS Agency to provide quarterly updates on the state's progress in acquiring disaster preparedness equipment and supplies, as well as on how these efforts have affected the state's ability to respond in the event of a public health disaster.

This quarterly report was due to the Legislature in March 2006. Though inquiries have been made, it is unknown at this time when this information will be provided.

Subcommittee Staff Recommendation—Modify Budget Bill Language. The Administration's Finance Letter is consistent with the direction provided to the Administration from the Joint Legislative Budget Committee (JLBC).

However, the Budget Bill Language provided by the Administration to accompany the $8.5 million reappropriation request for the warehouse storage needs to be modified because it is too broadly written. The recommended changes are noted below.

> 4265-491—Reappropriation, Department of Public Health. The amount specified in the following citation is reappropriated to the Department of Public Health for the purposes of ~~provided for in Chapter 241, Statutes of 2006 (SB 162)~~ providing warehouse storage space and any related modifications to this space to ensure the safe and appropriate storage of emergency preparedness materials and products, including pharmaceutical and medical supplies. The amount specified shall be available for encumbrance or expenditure until June 30, 2011.
>
> 0001 General Fund
> (1) $8,476,000 in Item 4260-111-0001, Budget Act of 2006

Questions. The Subcommittee has requested the Administration to respond to the following questions.

1. DPH, Please provide a brief summary of the Finance Letter request and how the supplies and equipment are to be stored.

12. Stop Tobacco Access to Kids Enforcement (STAKE)—City of Los Angeles

Issue. The Department of Public Health (DPH) is requesting authority to establish five positions, within their existing resources, for the STAKE Program to conduct 900 additional annual tobacco compliance checks and to administer the City of Los Angeles contract (contract in place since 2000).

The DPH states that two Food and Drug Investigators can conduct an average of 400 undercover tobacco compliance checks per year. Therefore, four of these positions are being requested, along with a Management Services Technician position for administrative support, to conduct 900 more compliance checks.

The City of Los Angeles is contracting for undercover compliance checks of tobacco retailers in order to reduce illegal tobacco product sales to minors. Currently, the City of Los Angeles has a sales rate to minors of over 35 percent. Without approval of this proposal the state may be unable to keep statewide tobacco sales rates to minors under 20 percent and could potentially lose over $100 million a year in federal funds (funds received by the Department of Alcohol and Drug).

The DPH positions will conduct these investigations under contract to the City of Los Angeles and has sufficient reimbursement authority in the STAKE reimbursement fund to absorb this additional revenue.

Background—Compliance Checks. Compliance checks include contacting and briefing the undercover youth operative, pre-surveillance of the area and tobacco retailers to be checked, travel to and from the operation area, actual compliance check time, notifying retailers of violations, and case preparation. About 2,000 tobacco retailers are checked statewide each year. These checks yield the illegal compliance sales rate to minors.

Background Overall. Within the existing Department of Health Services, there are two separate programs that administer the provisions of the STAKE Act funded annually by $2 million (federal Substance Abuse and Treatment block grant). These programs are the Tobacco control Section, which has three positions, and the Food and Drug Branch Stop Tobacco Access Kids Enforcement (STAKE) unit which has 15 positions, plus two additional positions at the Los Angeles City Attorney's Office to conduct compliance checks within their jurisdiction. About $400,000 of $2 million in existing funds is allocated for tobacco education and contract services. It should be noted that the DHS has authority (Section 22953 (b) of Business and Professions Code) to collect civil penalties, not to exceed $300,000, and deposit the penalties into the Sale of Tobacco to Minors Control Account.

Subcommittee Staff Recommendation. It is recommended to approve the budget request to establish the positions.

Questions. The Subcommittee has requested the DPH to respond to the following:

1. DPH, Please provide a brief summary of the budget request and how it will address issues in Los Angeles regarding the high rate of sales to minors (35 percent).
2. DPH, What additional activities may be implemented to provide assistance?